

City Council Introduction: **Monday**, February 26, 2001

Public Hearing: **Monday**, March 5, 2001, at **1:30 p.m.**

Bill No. 01-34

FACTSHEET

TITLE: **STREET VACATION NO. 01001**, requested by Carl Matthews, to vacate the east 5 feet of South 2nd Street from the south side of "F" Street to the north side of the alley.

STAFF RECOMMENDATION: A finding of conformance with the Comprehensive Plan and conditional approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission

Public Hearing: 02/07/01

Administrative Action: 02/07/01

RECOMMENDATION: A finding of conformance with the Comprehensive Plan and conditional approval (8-0: Carlson, Steward, Taylor, Krieser, Hunter, Duvall, Newman and Bayer voting 'yes'; Schwinn absent).

FINDINGS OF FACT:

1. The Planning staff recommendation to find the proposed street vacation to be in conformance with the Comprehensive Plan with conditions of approval is based upon the "Analysis" as set forth on p.2-3.
2. The applicant's testimony and the testimony in support is found on p.4.
3. There was no testimony in opposition.
4. The Planning Commission agreed with the staff recommendation.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: February 20, 2001

REVIEWED BY: _____

DATE: February 20, 2001

REFERENCE NUMBER: FS\CC\SAV01001

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: STREET VACATION NO. 01001

DATE: January 24, 2001

PROPOSAL: Vacate the east 5 feet of South 2nd Street from the south side of “F” Street to the north side of the alley.

GENERAL INFORMATION:

APPLICANT: Carl Matthews
201 F Street
Lincoln, NE 68508

LEGAL DESCRIPTION: The east 5 feet of South 2nd Street adjacent to Lot 6, Block 171, Original Plat of Lincoln, located in the SW 1/4 of Section 26, T10N, R6E of the 6th P.M., Lancaster County, Nebraska.

EXISTING ZONING: R-4 Residential

EXISTING LAND USE: Public right-of-way adjacent to a former commercial building in the process of being converted from a single family residence to a two-family residence.

SURROUNDING ZONING AND LAND USE: Surrounded by R-4 Residential zoning and residential uses

COMPREHENSIVE PLAN SPECIFICATIONS: The Land Use Plan shows the area as Urban Residential

ANALYSIS:

1. The City has received sufficient and proper petitions to vacate the east 5 feet of South 2nd Street adjacent to Lot 6, Block 171, Original Plat of Lincoln, generally located at South 2nd Street and “F” Street.
2. The petitioner indicated he is converting the building into a two-family residence and requested the vacation so that windows and doors may be placed along the west side of the building. The west side of the building abuts the property line, and according to the application 5 feet of open space is required in order to insert windows and doors.
3. South 2nd Street has 100 feet of right-of-way on this block.
4. South 2nd Street is classified as an urban collector on both the existing and future functional street and road classifications in the Comprehensive Plan.
5. According to the Public Works & Utilities report:
 - The Lincoln Electric System has asked that a permanent easement be retained for this area for the possible construction of future utilities.
 - The 5 feet of open space is a requirement from the City of Lincoln for the installation of doors and windows in the western facade of this structure.

-- The proposed vacation contains an area of 710 square feet, more or less.

6. Public Works & Utilities approval of this vacation, subject to retaining a permanent utility easement.
7. Real Estate appraised the value of the vacated area at \$106.50.

STAFF RECOMMENDATIONS:

1. The proposed vacation conforms with the 1994 Comprehensive Plan.

CONDITIONS:

1. The City retains a permanent utility easement over the vacated area.

Prepared by:

Jason Reynolds
Planning Department

STREET & ALLEY VACATION NO. 01001

PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 7, 2001

Members present: Carlson, Steward, Taylor, Krieser, Hunter, Duvall, Newman and Bayer; Schwinn absent.

Planning staff recommendation: A finding of conformance with the Comprehensive Plan and conditional approval.

This application was removed from the Consent Agenda and scheduled for separate public hearing at the request of the applicant.

Proponents

1. Doug Kaiser, 4401 So. 39th Street, Omaha, NE, testified on behalf of Carl Matthews, the applicant. This street vacation will allow the applicant to convert a derelict grocery store and warehouse building into a 2-family residence which abuts the property line along 2nd Street. This vacation is necessary to that there can be 5' of space between the building and the property line for doors and windows. The actual land vacated will not be physically used. It is only necessary for the spacing for the windows.

2. Richard Hitz, 3422 Woodshire, Lincoln, testified in support. He owns the property at 140 F Street, which is diagonal across from the Matthews property. In 1996, he and his wife applied for and received vacation of the west 14' of So. 2nd Street, and the 14' came about from a recommendation by the Planning Department. The Planning Department told him that in the unlikely event that 2nd Street was ever made four-lane, the maximum right-of-way required would be 17', which meant that 28' was surplus property, 14' on the west and 14' on the east side. Matthews wants to vacate 5' of this 14'. There would be absolutely no adverse impact on the neighborhood and precedent has already been set.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

February 7, 2001

Duvall moved to approve the Planning staff recommendation, seconded by Newman and carried 8-0: Carlson, Steward, Taylor, Krieser, Hunter, Duvall, Newman and Bayer voting 'yes'; Schwinn absent.



Street & Alley Vacation #01001 **S. 2nd & 'F' St.**

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

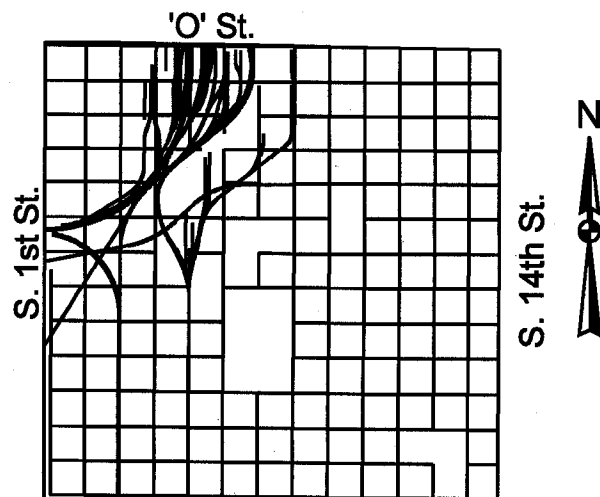
One Square Mile
 Sec. 26 T10N R6E



Zoning Jurisdiction Lines



City Limit Jurisdiction

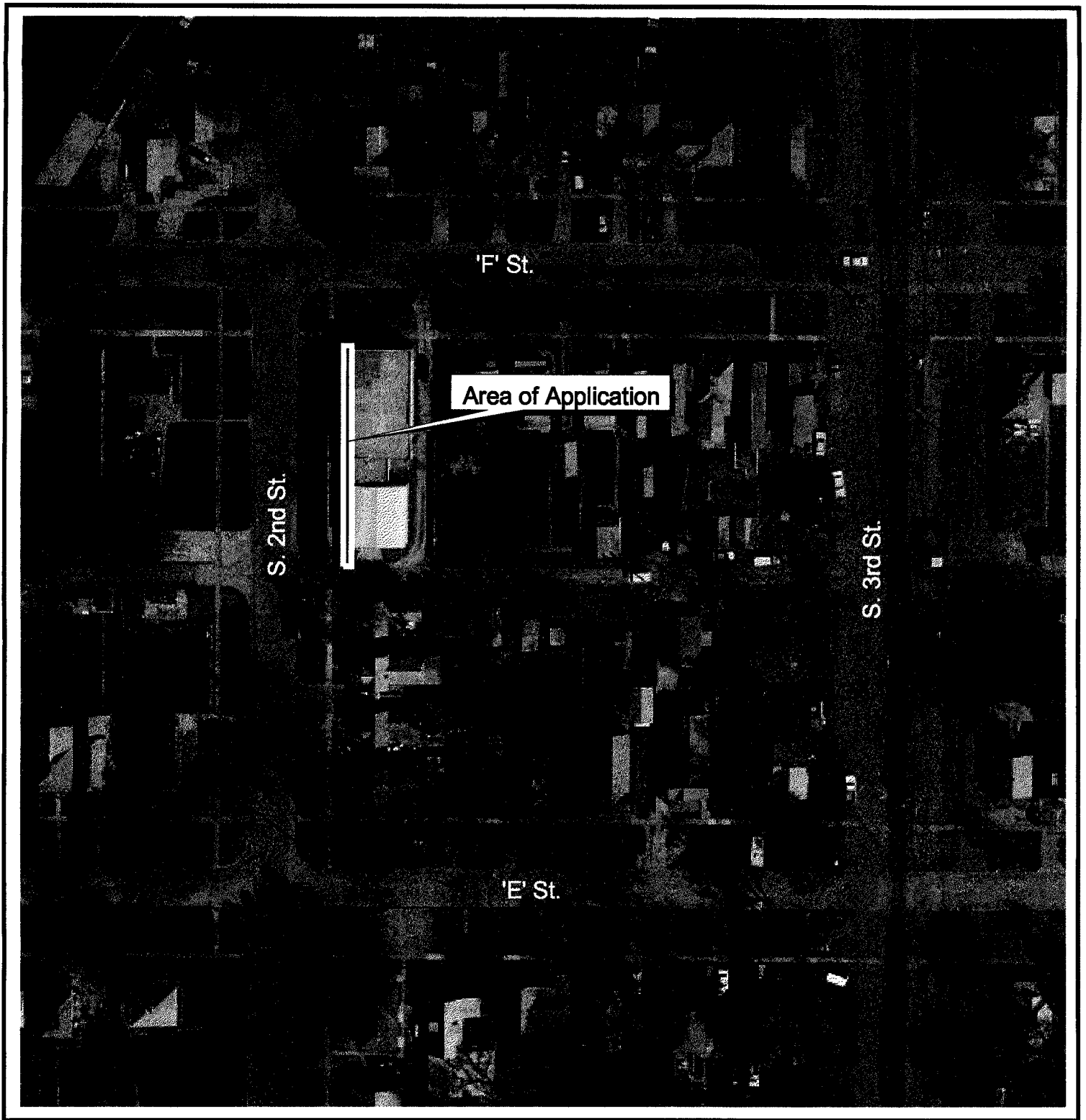


'A' St.

Sheet 1 of 2
 Date: 1-24-01

005

Lincoln City - Lancaster County Planning Dept.



Street & Alley Vacation #01001
S. 2nd & 'F' St.



Sheet 2 of 2

Date: 1-24-01

Photograph Date: 1997
Lincoln City - Lancaster County Planning Dept.

006

Lincoln



Nebraska's Capital City

January 2, 2001

Lincoln City/Lancaster County
Planning Commission
555 South 10th Street, Suite 213
Lincoln, Nebraska 68508

RE: Vacating the east 5 feet of South 2nd Street adjacent to Lot 6, Block 171, Original Plat of Lincoln

Dear Ladies and Gentlemen:

The Department of Public Works and Utilities has received a proper petition from Carl Matthews, owner of Lot 6, Block 171, Original Plat of Lincoln, to vacate the above described public right-of-way. Petitioner requests this vacation to allow proper open space for the installation of windows and doors in a building he is renovating.

The Lincoln Electric System has asked that a permanent easement be retained for this area for the possible construction of future utilities. The 5 feet of open space is a requirement from the City of Lincoln for the installation of doors and windows in the western facade of this structure.

The Department of Public Works and Utilities recommends approval of this proposed vacation with the above mentioned conditions. This vacation contains an area of 710 square feet, more or less.

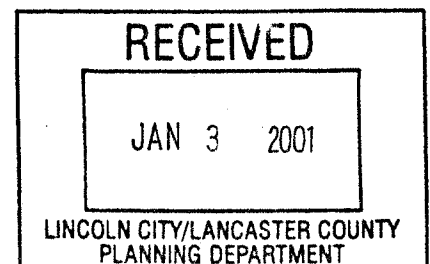
Sincerely,

Byron Blum
Engineering Services
Public Works and Utilities

jaj 2ndStVac blb

cc: Allan Abbott
Ann Harrell
Kathleen Sellman
Roger Figard

Dana Roper
Clint Thomas
Joan Ross
Marc Wullschleger



SAV01001

RECEIVED

JAN 9 2001

LINCOLN CITY/LANCASTER COUNTY
PLANNING DEPARTMENT

INTEROFFICE MEMORANDUM

TO: City Council Members FROM: Clinton W. Thomas
DEPARTMENT: City Council Office DEPARTMENT: Real Estate Division
ATTENTION: DATE: January 8, 2001
COPIES TO: Joan Ross
Kathleen Sellman
Dana Roper
Byron Blum
SUBJECT: Vacation of the east 5 feet, South 2nd
Street adjacent to Lot 6, Block 171,
Original Plat of Lincoln

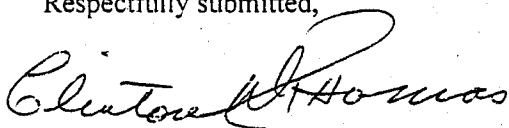
A request has been made to vacate the east 5 feet of South 2nd Street extending from the south line of F Street to the north line of the east-west alley in Block 171. The area was viewed and appears as open right-of-way located behind the sidewalk. There is currently construction associated with building remodeling occurring in the area. 2 small pine trees presumably planted by the adjacent property owner appear to be located within the area. There is also a multi-trunk deciduous tree of some type located within the area which does not appear to have been well cared for over the years and may be a volunteer. Since the area is in the set-back, it would remain as open space even if sold to the abutting property owner. Lincoln Electric System has asked that a Permanent Easement be retained over this area for the possible construction of future electric utilities.

Narrow strips such as this have little or no value in and of themselves, but will take on the value of the abutting property once assembled into it. In this case the abutting property is estimated at a value of approximately \$2.50 per square foot. However, since the abutting property is improved, the assemblage value of the strip is less than it would be for vacant land. As the improvements are being remodeled and a change of use in the future is highly unlikely, the only value of the narrow strip is to allow the abutting property owner to install doors and windows along that side of the building as a part of their remodel. That fact, plus the retention of easements over the area, leads me to conclude the strip to be vacated has only a nominal value of \$0.15/sq. ft. The calculations are as follows:

$$710 \text{ sq. ft.} \quad \times \quad \$0.15/\text{sq. ft.} \quad = \quad \$106.50$$

Therefore, it is recommended that if the area be vacated it be sold to the abutting property owner for \$106.50.

Respectfully submitted,



Clinton W. Thomas
Certified General Appraiser #990023

dge

INFORMATION SHEET

An Information Sheet must be filled out completely by the owners of each parcel abutting the requested vacation. The attached **Petition to Vacate Public Way** must also be filled out completely according to the instructions contained in the Instruction Sheet.

1. Name of Petitioner (Current Titleholder/s): CARL MATTHEWS, A SINGLE PERSON
If more than one individual, indicate if you are:
_____ joint tenants with right of survivorship, OR _____ tenants in common
2. Petitioner's Address: 201 F STREET
LINCOLN, NE 68508
3. Petitioner's Telephone Number: (402) 476-0680
4. Social Security Number of each Petitioner or Federal Employer Identification No. if a Corporation:
448-70-4314
5. Name of street, alley, or other public way sought to be vacated: FIVE FEET ON THE
EASTERN SIDE OF 2ND STREET BETWEEN F STREET AND
THE ALLEY BETWEEN F & E STREETS (SEE ATTACHED DRAWING)
6. Why are you seeking to have this street, alley, or other public way vacated? I AM CONVERTING A DERELICT
GROCERY STORE AND WAREHOUSE BUILDING INTO A 2 FAMILY RESIDENCE. THE
BUILDING ABUTTS THE PROPERTY LINE ALONG 2ND STREET. FIVE FEET OF OPEN
SPACE BETWEEN A BUILDING AND PROPERTY LINE IS REQUIRED IN ORDER TO INSERT DOORS &
WINDOWS.
7. What use or uses do you propose to make of the public way should it be vacated?
THE LAND WILL NOT BE PHYSICALLY USED. THE OPEN SPACE IS REQUIRED IN ORDER TO
INSERT DOORS AND WINDOWS INTO THE WESTERN FACADE OF MY BUILDING.
8. Do you intend to purchase that portion of the vacated public way which abuts your property as described in
the **Petition to Vacate Public Way** and/or other portions of the vacated public way?
X YES _____ NO
9. Name and address of person to whom tax statement should be sent:
CARL MATTHEWS
201 F STREET
LINCOLN, NE 68508

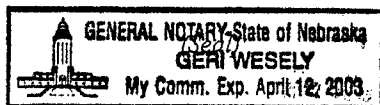
Prior to third reading of the Vacation Ordinance before the City Council, the property will be appraised. The purchase price of the portion abutting your property must be paid to the City Clerk at that time, or the property will be sold to any other abutting owner willing to pay the purchase price. The Vacation Ordinance will not receive third reading until the full price of the entire public way proposed to be vacated has been paid.

*** IMPORTANT: BE SURE THAT THE PETITION TO VACATE PUBLIC WAY HAS BEEN PROPERLY EXECUTED BY ALL TITLEHOLDERS TO YOUR PROPERTY AND ATTACH IT TO THIS INFORMATION SHEET.

(Individual(s) Acknowledgment):

STATE OF Nebraska)
Lancaster COUNTY) ss.

The foregoing instrument was acknowledged before me on this 24th day of October, 2000, by Carl Matthews, a single person
(Please indicate marital status)



Geri Weely
Notary Public

(Corporate Acknowledgment)

STATE OF _____)
_____ COUNTY) ss.

The foregoing instrument was acknowledged before me on this _____ day of _____, 20____, by _____, president of _____, on behalf of the corporation.

(Seal)

Notary Public

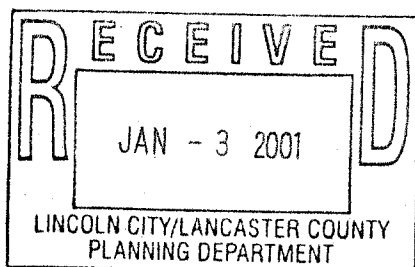
(Partnership Acknowledgment)

STATE OF _____)
_____ COUNTY) ss.

The foregoing instrument was acknowledged before me on this _____ day of _____, 20____, by _____, general partner of _____, on behalf of the partnership.

(Seal)

Notary Public



PETITION TO VACATE PUBLIC WAY
With
RELEASE AND WAIVER OF RIGHTS AND TITLE,
AND QUITCLAIM DEED TO CITY OF LINCOLN

TO THE HONORABLE CITY COUNCIL OF THE CITY OF LINCOLN, NEBRASKA:

The undersign property owner(s) hereby petition you to vacate the following street, alley, or other public way, commonly known as: (i.e.: Elm Street from 1st to 2nd St. or East-west alley, from north line of 1st St. to the south line of 2nd St.)

THE EAST 5TH STREET BETWEEN THE SOUTH LINE OF F STREET AND THE NORTH
LINE OF THE ALLEY BETWEEN F & E STREETS (SEE ATTACHED DRAWING)

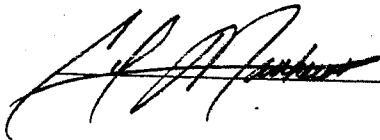
in the CITY OF LINCOLN, NEBRASKA, with the City reserving in said street, alley, or other public way such title, rights, easements, and privileges as it may deem necessary. In consideration of the vacation of the above-described street, alley, or other public way, we, and each of us, for ourselves, our heirs, personal representatives, successors, and assigns, hereby waive and release any and all claims, causes of action, rights of access, and demands of every nature, known or unknown, which may accrue to us, or which we now have or which we may hereafter have as a result of such vacation; and hereby quitclaim unto the City of Lincoln, Nebraska, and to its successors and assigns forever, all right, title, interest, estate, and demand, both at law and in equity, in and to all of said street, alley, or other public way.

TO HAVE AND TO HOLD the above-described street, alley, or other public way together with all tenements, hereditaments, and appurtenances thereto belonging unto the City of Lincoln, Nebraska, and to its successors and assigns forever.

The undersigned hereby represent(s) that he, she, they, or it is(are) the owner(s) of the following described property in Lincoln, Lancaster County, Nebraska, abutting on said street, alley, or other public way: (Legal description from deed or abstract)

LOT 6, BLOCK 171, ORIGINAL PLAT OF LINCOLN

DATED this 23RD day of OCTOBER, 2000.



(ALL TITLEHOLDERS OF THE ABOVE DESCRIBED REAL ESTATE MUST SIGN THIS PETITION
BEFORE A NOTARY PUBLIC - NOTARIAL ACKNOWLEDGMENTS ON REVERSE)

CITY OF LINCOLN
NEBRASKA

OCT 25 11 08 10

2nd Street

'F' Street

